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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,801	02/19/2002	Alphonse J. Lemanski	215-009977-US (I01)	7479

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EXAMINER

ESTREMSKY, SHERRY LYNN

ART UNIT

PAPER NUMBER

3681

DATE MAILED: 04/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/079,801

Applicant(s)
Lemanski

Examiner
Sherry Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 pages 6) ☐ Other:

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DETAILED ACTION

Priority

1. If applicant desires priority under 35 U.S.C. 119(e) based upon a previously filed copending application, specific reference to the earlier filed application must be made in the instant application. This should appear as the first sentence of the specification following the title, preferably as a separate paragraph. The status of nonprovisional parent application(s) (whether patented or abandoned) should also be included. If a parent application has become a patent, the expression "now Patent No. _____" should follow the filing date of the parent application. If a parent application has become abandoned, the expression "now abandoned" should follow the filing date of the parent application.

If the application is a utility or plant application filed on or after November 29, 2000, any claim for priority must be made during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2) and (a)(5). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A priority claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed claim for priority under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) a surcharge under 37 CFR 1.17(t), and (2) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional. The petition should be directed to the Office of Petitions, Box DAC, Assistant Commissioner for Patents, Washington, DC 20231.

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Information Disclosure Statement

2. The information disclosure statement dated January 24, 2003 fails, in part, to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. Patent number 3,490,659 was not included in either the current application or parent application and so has not been considered (U. S. Patent 3,490,659 to La Vange et al. deals with dispensing bottle caps such as are commonly found on lotion bottles).

Claim Objections

3. Claim 1 is objected to because of the following informality: lines 18-19 of claim 1 include "the conjugate motion converter", though the motion converter was not previously expressly called "conjugate" in the claim (the reaction control rotor was called conjugate). Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Lines 10-14 of claim 1 (the description of the motion converter) are indefinite in claiming that the motion converter includes gear type teeth on both sides as well as load transmitter follower members on both sides. It is not clear which elements of the disclosed invention would be considered gear teeth and which would be considered load transmitting follower members since the motion converter has only one type of element on both sides. It appears that the gear type teeth function as load transmitting follower members and they should not be claimed as two separate elements. This is how claim 1 is being interpreted for the purpose of this action.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Davidson, U. S. Patent 3,895,540.

Davidson shows in figures 5 and 6 a continuously variable speed power transmission with an input member 61 rotatable about an input axis.

An output member 65 is rotatable about an output axis including a plurality of rearwardly directed output face teeth 66.

A conjugate reaction control rotor 70 is mounted for selective rotation about the input axis and includes a plurality of forwardly directed reaction face teeth 69 in opposition to the output face teeth 66.

A motion converter 60 with gear teeth 63 and 68 embodied on both sides is rotatably mounted for nutational motion about the input axis. The gear teeth 63 and 68 are a plurality of

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load transmitting follower members which simultaneously engage with the output face teeth 66 and the reaction face teeth 69.

A control means selectively adjusts the rate of rotation of the reaction control rotor 70 relative to the input member 61 (by placing the rotor under variable loading against rotation: see column 8, lines 9-14).

Relative rotation between the reaction control rotor 70 and the input member 61 results in both rotation and nutation of the motion converter 60 about the input axis and thereby results in a continuously variable change of ratio of the rotational speed of the output member 65 relative to the input member 61.

(claim 1)

The teeth are selected from the group consisting of external and internal bevel and face type teeth. Lines 54-67 of column 7 describe selection of form and number of teeth.

(claim 2)

Allowable Subject Matter

8. Claim 3 is allowed.

9. The following is a statement of reasons for the indication of allowable subject matter:

No reference nor combination of references was found which teaches a continuously variable speed power transmission including an input member, an output member, a reaction control rotor, a pericyclic motion converter, and a control means for selectively adjusting the rate of rotation of the reaction control rotor relative to the input member, wherein the pericyclic motion converter is rotatably mounted for nutational motion and the reaction control rotor has integrated motors/generator components.

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Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent 1,495,784 (Fereday) May 1924 - discloses using electric/magnetic means to produce nutational motion of a mechanical member.

U. S. Patent 2,871,382 (Bouvier) January 1959 - discloses a speed reducing transmission with an output member, a reaction member, and a pericyclic motion converter rotatably mounted for nutational motion which is driven by and caused to nutate by an electrical/magnetic apparatus.

U. S. Patent 4,262,556 (Hart) April 1981 - discloses embodiments of a continuously variable speed power transmission including a pericyclic motion converter rotatably mounted for nutational motion and a control rotor with integrated hydraulic motor components.

U. S. Patent 4,997,413 (Dahlquist) March 1991 - discloses a transmission with a motion converter which wobbles but does not rotate and which reacts with a control rotor with integrated electrical motor components.

FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 305-3597**. Recognizing the fact that reducing the cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and deliver time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01.

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In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission.

Responses requiring a fee which applicant is paying by check **should not be** submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certification of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 305-3597) on _____
(Date)

Typed or printed name of person signing this certificate:

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherry Estremsky whose telephone number is (703) 308-2164. The examiner can normally be reached on Monday through Thursday from 7:30 a.m. to 6:00 p.m.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, can be reached at (703) 308-0830. The fax phone number for this Group is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

SLE

(703) 308-2164

April 14, 2003


SHERRY ESTREMSKY
PRIMARY EXAMINER
AU3681 4-14-03